

AGENDA Committee on Public Safety Friday, July 8, 2016 @ 3:30 p.m. City Council Chambers, 10th Floor, City Hall

Councilmember Carol Wood, Chair Councilmember Adam Hussain, Vice Chair Councilmember Kathie Dunbar, Member

- 1. Call to Order
- 2. Roll Call
- 3. Minutes
 - June 10, 2016
 - June 27, 2016
- 4. Public Comment on Agenda Items
- 5. Discussion/Action:
 - A.) DISCUSSION Medical Marihuana Licensing Ordinance
- 6. Other
- 7. Adjourn
- Pending Continued discussion regarding 3200 S. Washington
- Pending Discussion regarding lead



COMMITTEE Public Safety

DATE 7-8-16

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MINUTES Committee on Public Safety Friday, July 8, 2016 @ 3:30 p.m. City Council Chambers, 10th Floor City Hall

CALL TO ORDER

The meeting called to order at 3:35 p.m.

ROLL CALL

Councilmember Carol Wood, Chair Councilmember Adam Hussain, Vice Chair Councilmember Kathie Dunbar, Member

OTHERS PRESENT

Sherrie Boak, Council Staff Jim Smiertka, City Attorney Mark Dotson, Deputy City Attorney Spike Tyler Darren Cresian Elvis Ott Harold Tayler Cindy Eltaoth Elaine Womboldt Robin Schneider, NPRA Jennifer Woodwin Mary Ellen Purificato Mary Ann Prince Jacob Rufenacht Chris Riesbeck Richard Williams

MINUTES

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM JUNE 10, 2016 AS PRESENTED. MOTION CARRIED 3-0.

MOTION BY COUNCIL MEMBER DUNBAR TO APPROVE THE MINUTES FROM JUNE 27, 2016 AS PRESENTED. MOTION CARRIED 3-0.

Council Member Wood spoke on clarification on audience protocol. It was stressed the importance of allowing each person to have their opportunity to speak without comments from the audience whether here in the chambers, the lobby or outside the building.

It was then noted that at the meeting on June 10, 2016 the Interim City Attorney Mr. Abood, indicated that based on additional research that the ordinance drafted by their office on April 22nd that it wasn't enforceable. There was a request for additional time to submit a new draft to the Committee. The Committee at that time demanded a third proposal or a process on how to close dispensaries that have opened be presented to Committee today. After the approval of Mr. Smiertka as City Attorney, he asked prior to this meeting, could Law have more time, and he was given until July 22, 2016.

Discussion/Action:

DISCUSSION – Medical Marihuana Licensing Ordinance

Mr. Smiertka acknowledged his efforts so far, and communications with Mr. Dotson who was involved in crafting the first draft. The Michigan Medical Marihuana Act only allows for a Caregiver to have five registered patients. There are cases that speak to how that can occur and not occur. There is also is a Charter provision in Lansing that allows for the possession of less than an 1 oz. on a persons' private property if they are 21 years or older. Mr. Smiertka continued by stating that when crafting the ordinance they have to find what complies with the Charter and with the Michigan Medical Marihuana Act. The Act and cases interpreted say certain things cannot occur, such as Caregiver to Caregiver and patient to patient, also Caregiver to non-registered patient transfers. Also the growing of medical marijuana which addresses that twelve plants for each of the five patients with a total of sixty plants, with provisions on location and regulations. The Act is silent however on other things such as how does it get to the location, cases where you can't have in a condo situation. Mr. Dotson added that a co-op is illegal, where care givers share product with each other, and not designated for the regular patients.

Councilmember Wood asked if a large building is secured for individual Caregivers to have their own locked area can they or cannot they have the plants there. Mr. Dotson stated if the security is independent only to that Caregiver, they can, if they are also operating consistent with the MMA. It violates the MMA if they are working out of the same building which is not secure to individual Caregiver.

Councilmember Dunbar asked if they are using storage units, locked but all in a single building if it would trigger a federal raid. Mr. Dotson replied that under Michigan law he was not aware of an opinion for that type of operation would be illegal, but not sure about Federal laws. Mr. Smiertka noted his office is still doing background work on the process, and noted in August the U. S. Government may state that medical marihuana is not under level 1drug, so it could be in registered phase. The Michigan Legislature is working on rules to clarify. There are currently businesses with the City ordinance has a license involved and zoning restrictions. Some of those are concepts of the dispensaries so many feet separating each other. Mr. Smiertka continued that in his review of the ordinance he is trying to anticipate what the Legislature may do in the fall.

Currently right now, nuisances in the residential neighborhoods, the zoning should not allow these businesses. The intent of the next draft of the ordinance is to address this and to keep the business of marijuana out of the neighborhoods. Now the Caregiver can still have immunity as long as they comply with the State law. Currently the City Attorney office is looking at three things which include; getting an advisory board to advise the City/Council and build into the ordinance a process for rules, making it flexible when State and Federal laws change. Mr. Smiertka suggested that maybe there is an option to provide a waiver for the neighborhood uses. Lastly the question is who would issue the license. The City Attorneys' office goal is to have the draft back by the July 22 meeting.

Mr. Dotson added they welcome any suggestions on the process, the advisory committee, registering and licensing.

Councilmember Dunbar referred back to a comment by the City Attorney where he had stated that Caregivers can do what they want as long as they comport with State law. The question then is does the State law address odor and the details of the nuisance aspect, and does Council still have the right to regulate under their ordinances to regulate noise, smell and traffic. Mr. Smiertka confirmed that Council can still address those items.

Council Member Dunbar referred back to a statement by Mr. Dotson, and asked if he was suggesting that the advisory panel/committee law is proposing would be doing the approvals of the licensing. Mr. Dotson acknowledged he was looking at a number of different models. The plan is to have the Clerk's office vet the applications to meet core requirements, then pass to respective departments. The committee would look thru information submitted to see if it meets qualifications that the committee set. The City Attorney office is trying to strike a balance that has multiple entities and criteria, then remove any doubt that the public or City may have.

Councilmember Dunbar agreed to a committee that sets standards, but not in favor of a citizen board for approvals, that sets precedence and is wrong. Legitimacy is having standard set of criteria. Mr. Smiertka clarified that that is not the intent; not to take away the legislative function of the City Council. The advisory board is a team of experts to advise the City on issues and advise on the adoption of rules to come back to. Again it was noted these discussions are all just concepts at this time.

Councilmember Hussain noted he was not in support of Mayoral appointments because the positions need to be objective, therefore he asked law if there were other models out there law can look at. Mr. Dotson confirmed there are some communities that have created committees, and those communities have been very impressive, especially those committees that are familiar with the business. There is also an assumption that there are well defined criteria that guides the committee. Mr. Smiertka stated that if there is no level of objectivity, and if they are vague or arbitrary, then the property owner and the license could open up the City for liability. The City Attorney is not in favor of a committee for committee purpose, but in this case they need experts to advise them.

Councilmember Wood asked if would be similar to the BZA, Electrical Board and Plumbing Boards. Mr. Smiertka confirmed it would be but with no powers.

Councilmember Wood voiced her concern with regard to e grandfathering or vest interest in of a business that is already open. Mr. Smiertka noted that there is a provision in the ordinance with a 30 day provision for the new license and grandfathering assumes the prior use of the business was legal.

Mr. Dotson noted if they are operating illegally they are ineligible for grandfathering. When the process starts all over again, it will be deemed everyone is illegal and shut down for that period, or another approach is to give them a window where they have to apply then the City will issue the license or deny. The draft ordinance the Committee will see next time does speak to that as well. Mr. Smiertka noted that he was not sure that currently the draft ordinance has a space differential.

Councilmember Dunbar asked if there is a window to apply, and if they have to demonstrate to comport with that to get the license, also what if there multiple businesses in one site, and they all comport with license requirements and they all fit the legal criteria, how could you choose

which stays and which goes if they are all in compliance. Mr. Smiertka confirmed that it could be difficult but he would look into it.

Councilmember Hussain asked about any legal footing and subsequent litigation. Mr. Smiertka noted he would research and come up with the legal solution.

Councilmember Wood asked that they add to the research the issue of if they did not issue license, can the City go back to the letter from the City Attorney that stated none could be open. The research should also include information on closing during those 30 days and during that time they apply for license. Councilmember Hussain asked if there was a disciplinary time frame. Mr. Smiertka referenced the nuisance abatement.

Councilmember Wood began discussions on the creation of the advisory group. It was asked if the group of experts would be in the ordinance as part of the policies and procedures. Mr. Smiertka stated he can draft it so the direction of advisory body would be to stop the issuance or denial of license.

Councilmember Wood asked if there was any relief for violations of the home occupation ordinance. Mr. Smiertka noted that it is not the intent to have this operation as a home occupation in a neighborhood. The ordinance will be drafted to be in compliance with the Michigan Medical Marihuana Act. An operation of a provisioning center not permitted in resident district. There are other issues such as odor, traffic, noise and those are not exempt. This will not affect normal enforcement of the building code. It was noted by Law that enforcement on noxious smells and nuisance can be enforced now.

Councilmember Dunbar noted that in the ordinance, when speaking of home occupation, it is not an occupation to be a Caregiver under the law. It appears the residential traffic is related to the Caregiver use. This would be hard to regulate, and there is no legal rights to go into the property. Councilmember Wood noted for Law that the City has been using home occupation ordinance successfully in court.

The Committee will continue to review and the next step is the internal process.

PUBLIC COMMENT

Mr. Tyson spoke in support of the ability to have medical marihuana and how successful its use has been with his health problems. Mr. Tyson's issue with the ordinance is that currently it does not require them to have a carbon filter on their facility which would help the odor. Mr. Tyson concluded his opinion by stating he also is asking for the review of the dispensary locations.

Mr. Cresian spoke in support of regulations, testing facilities and education on the guidelines.

Mr. Ott spoke in opposition to a grow house in a residence. Mr. Ott also noted nuisances of smell, noise and traffic. Councilmember Wood acknowledged forwarding Mr. Ottt's earlier email complaint to the Zoning department.

Mr. Taylor also spoke in opposition to grow houses in neighborhoods and the problems they cause.

Ms. Eltaoth spoke of statistics in Ingham County and asked the Committee to consider protection of all the residents in the City of Lansing. Ms. Eltaoth encouraged the Committee to consider 1,000 feet from schools, day cares, churches and also require confirmation that the

employees cannot be convicted felons. Lastly she added should like a citizen or neighborhood leader on any advisory panel/committee.

Ms. Womboldt also asked for a neighborhood representative on the advisory panel/committee, the concluded her with her opposition to the medical marihuana without guidelines to protect all residents.

Ms. Schneider on behalf of the NPRA noted that distribution should not be taking place at the same place where it is grown, and co-ops are separate from the transfers for security reasons. Caregivers are not required to lock up their product unless they leave the site. Ms. Schneider is asking the Committee consider establishing a City Department to handle everything marihuana, setting a population cap, and required distance from schools. On the State side, the legislators have been crafting something for five (5) years, and hopefully Ms. Schneider hopes it will pass this year. Lastly, she supported neighborhood representative and law enforcement on the advisory panel/committee.

Mr. Dotson asked Ms. Schneider what her opinion on committee members placement would be, and Ms. Schneider suggested volunteers appointed by Council. Councilmember Wood stated that the City cannot create by ordinance a department with funds has not been appropriated for. It is a unfunded mandate.

Ms. Goodman spoke as the owner of a dispensary, noting she had followed all the rules and was still closed by the City. Ms. Goodman agrees to the provision of a license, but currently feels she was closed for the wrong reason. Councilmember Wood clarified to Ms. Goodman she was closed because the use did not comply with the current zoning ordinance. It is not in one of the zoning districts that this use can be in. Ms. Goodman was encouraged to provide addresses of other dispensaries she may believe are not in the correct zoning district.

Ms. Purificato acknowledged a recent situation in the Fairfield Condo Association, Beechfield where with assistance from the LPD and Council they were able to have it taken care. Once all the other sites are addressed in the association they will be changing their by-laws.

Mr. Rufenacht suggested the dispensaries provide liability insurance, business insurance, and registration.

Mr. Williams asked for enforcement of the current ordinance and spoke as a relator with concerns with the nuisance.

Mr. Riesbeck offered his assistance to the committee for expert opinion on dispensaries.

Councilmember Wood informed the public the next meeting would be July 22, 2016 and Law will have a new draft of the ordinance at that time, potentially by July 20th. Mr. Smiertka noted he would attempt to meet that deadline. Councilmember Wood noted that she has reached out to Ingham County Prosecutor Gretchen Witmer to attend the next meeting. The July 22nd meeting wills also a review of the current ordinance, the nuisance ordinance, home occupation, provision centers, and abating issues that are done thru zoning. The Committee will also look into the State statue and regulations.

Councilmember Wood informed residents and the Committee of a meeting hosted by the Lansing Housing Committee on July 19th at 3200 S. Washington. Council has been invited, and she will incorporate a Committee on Public Safety at that time.

<u>Pending</u>

- Pending Continued discussion regarding 3200 S. Washington
- Pending Discussion regarding lead

ADJOURN
The meeting was adjourned at 5:29 p.m.
Submitted by, Sherrie Boak, Recording Secretary Lansing City Council Approved: July 22, 2016



MINUTES Committee on Public Safety Friday, June 10, 2016 @ 3:30 p.m. Tenth Floor, City Council Chambers – Lansing City Hall

CALL TO ORDER

The meeting called to order at 3:39 p.m.

ROLL CALL

Councilmember Carol Wood, Chair Councilmember Adam Hussain, Vice Chair – Arrived 3:48 p.m. Councilmember Kathie Dunbar, Member

OTHERS PRESENT

Courtney Vincent, Council Administrative Assistant Kristen Simmons, Assistant City Attorney Mark Dotson, Deputy City Attorney Joe Abood, Interim City Attorney Councilmember Patricia Spitzley, Lansing City Council Chief Mike Yankowski, Lansing Police Department Claude Beavers Deb Parrish Elaine Womboldt, Rejuvenate South Lansing Korv Friesell Mona Decess Joan Knapp Nate Patrick David Brogren, Cannabis Patients United **Brant Johnson** Mary Ann Prince, Rejuvenate South Lansing Richard Williams

<u>Minutes</u>

Spencer Soka

Councilmember Wood passed the gavel to Councilmember Dunbar.

MOTION BY COUNCILMEMBER WOOD TO APPROVE THE MINUTES OF MAY 27, 2016 AS PRESENTED. MOTION CARRIED 2-0.

Councilmember Dunbar passed the gavel back to Councilmember Wood.

Public Comment:

Councilmember Wood stated public comment would be taken at the end of the discussion unless someone was unable to stay for the meeting. If so she would take comments now. No one wished to speak.

Councilmember Wood also stated the Committee would not be going through the second draft of the Medical Marihuana Ordinance line-by-line at this time and would explain when the item came up.

Discussion/Action:

UPDATE – Community Police Officers with LPD

Chief Yankowski reported the Community Police Officer (CPO) program had been expanded with the creation of the Community Services Unit within the Lansing Police Department (LPD). Sgt. Matt Kreft is the sergeant assigned to overseeing the unit and eight of the nine CPO positions have been filled. The ninth position, for the Potter/Walsh Neighborhood, is anticipated to be filled in September. Hours for the CPO's vary, but peak hours will be from 11:00 a.m. to 9:00 p.m. Chief Yankowski explained the areas selected for a CPO were determined through analysis of the number of calls for service, incidents of crime, historical boundaries, and the need of the area, as well as utilizing the Data-Driven Approaches to Crime and Traffic Safety (DDACTS) program. CPO's will perform foot and bicycle patrols in the neighborhoods and be involved in community events. Chief Yankowski then discussed other methods of officer involvement in the community such as school resource officers assisting CPO's in different neighborhoods during the summer, the Gang Resistance Education and Training (G.R.E.A.T.) Program, the Police and Fire Leadership Academy, and the Explorer Program.

Mr. Frisell asked what would be done in the neighborhoods between the hours of 9:00 p.m. and 3:00 a.m. when the CPO's were off duty. Chief Yankowski explained the presence of CPO's is in addition to resources already in the area. He also asked for residents to report when they witness a crime, explaining LPD uses a data-driven approach and a hotspot policing model.

Ms. Parrish asked if residents could email their CPO about any issues that may arise. Chief Yankowski replied residents could email their CPO or they could email Sgt. Kreft should they not receive a response from the CPO.

Ms. Womboldt expressed her support of the CPO program and remarked on the good impression Officer Arnold made while speaking at an Old Everett Neighborhood Association meeting.

DISCUSSION – Medical Marihuana Licensing Ordinance

Councilmember Wood requested attendees show respect and decorum towards each other both during and after the meeting. She then stated the Committee had been informed by the City Attorney's Office that, after additional research and reviewing recent court cases, some provisions of the second draft of the Medical Marihuana Ordinance written by the City Attorney's office may not be enforceable or legal. It is imperative to the Committee we have an ordinance that is enforceable and comports with the State law. With this in mind, the City Attorney's Office is creating a third draft incorporating aspects of the Ann Arbor and Detroit ordinances. Councilmember Wood stated the Committee will not meet on June 24, 2016; the next meeting and the deadline for the third draft will be July 8, 2016. The Committee is very upset that they have been working on this version of the ordinance since April and now we are hearing about the issues. If the Committee does not have an ordinance that is enforceable on July 8th then the Committee will be working to see that dispensaries that are acting illegally are closed.

Mr. Abood explained recent rulings by the Court of Appeals have clarified that the only transfers allowed under the MMMA are between a caregiver and their registered patient, and have also further indicated the immunities granted under the MMMA. Because of this, Mr. Abood stated the second draft of the Medical Marihuana Ordinance falls short of its attempt to bring the industry out of the shadows and into the business corridor without infringing on patients' rights.

Councilmember Dunbar asked which findings negated provisions in the draft ordinance. Mr. Abood explained the ruling made clear that caregiver to caregiver transfers were not allowed. He also noted the largest aspect of those cases pertained to caregivers and patients operating out of their personal residences.

Councilmember Hussain asked if there was a commitment by the City Attorney's Office to shut down dispensaries if a revised ordinance has not been presented to the Committee by July 8th. Mr. Abood confirmed the timeline for the third draft was July 8, 2016, and stated his office will enforce all City ordinances to the extent the LPD or other Departments submit complaints. He explained his office had anticipated the need for several drafts of the ordinance based on proposed legislation and rulings on court cases, and any such changes before July 8th could change the direction of the ordinance again.

Councilmember Wood asked the City Attorney's Office to submit the draft ordinance to the committee by July 6th to allow time for review and dissemination to the public.

Place on File

Councilmember Wood noted the Committee had received letters from DMC Strategies and Cannabis Patients United as well as an email from Mr. and Mrs. Weathers.

MOTION BY COUNCILMEMBER DUNBAR TO ACKNOWLEDGE RECEIPT OF THE ITEMS LISTED BELOW. MOTION CARRIED 3-0.

- Communication from Jamaine Dickens of DMC Strategies regarding Proposed Medical Marihuana Ordinance/Drive Thru Service Windows
- Letter from Cannabis Patients United regarding the proposed Medical Marihuana Ordinance
- Email from Mr. and Mrs. Weathers in support of OMG! Our Miracle Garden LLC

Public Comment on Agenda Items

Councilmember Hussain asked Mr. Abood if any complaints had been received regarding dispensaries opening after the implementation of the moratorium and whether those complaints were being investigated. Mr. Abood replied that very few complaints had been received and appropriate letters were being sent to receive more information. Councilmember Wood remarked it would be helpful if those making complaints could provide the address of the facility in question when making a complaint.

Mr. Beavers asked whether the provision in the second draft of the ordinance prohibiting anyone with a felony conviction in the last ten years from obtaining a license pertained only to someone wanting to dispense medical marihuana or if it applied to any other instance where someone would like to act but is restricted because of a prison record. He then asked about the provisions in the draft discussing debts to the City and expressed his opposition to anyone with outstanding debt to the City being able to receive a license. He expressed concern over the use of the word "may" instead of "shall" throughout the draft ordinance. He also expressed concern over the request for what he called "public policing" and the possibility of it creating vigilante groups.

Ms. Parrish expressed disappointment in the progress of the ordinance. She asked why the City could not certify the dispensaries so they would know who owned them. She asked for the names of the court cases being referenced in the meeting. The two cases being referenced are People of the State of Michigan versus Ryan Michael Bylsma and People of the State of Michigan versus David James Overholt, Jr.

Ms. Womboldt expressed extreme disappointment in the progress of enacting an ordinance and her concern that the rights of medical marihuana patients were being placed above the rights of others. She stressed residents did not want marihuana grown and dispensed in their neighborhoods; they wanted equal rights for quality of life issues. She supported closing the dispensaries.

Mr. Frisell discussed the safety of medical marihuana, both for the patient and those around the patient, as opposed to the danger of other medications that posed the risk of harmful side effects to the patient and posed a hazard to children who might accidentally consume them. Councilmember Wood reiterated the goal of the ordinance was to ensure patients had a safe place to obtain the medical marihuana they need.

Ms. Decess expressed concern over traffic and odor issues stemming from two caregivers in her neighborhood.

Mr. Brogren encouraged the City Council to utilize existing ordinances to address issues such as odor instead of creating a new ordinance. Councilmember Wood noted there was currently an ordinance regarding home occupation that addressed odors, noise, and industrial equipment, and the City Council would look at stronger enforcement of that ordinance.

Ms. Prince expressed her support of shutting down all dispensaries in the city.

Mr. Williams asked if the home occupation ordinance was currently being enforced. Chief Yankowski explained investigations were conducted on complaints as they were received, but there has not been much success with prosecution.

Mr. Soka suggested requiring dispensary owners to fill out an application, submit to a background check, and provide a deposit in order for the City to determine which facilities were serious in their operations.

Councilmember Dunbar noted the rulings of the Court of Appeals meant a business model where multiple caregivers share one location and tend only to their patients did not fit the original intent of the legislation. She explained shutting down dispensaries would put medical marihuana back into the neighborhoods, and the City would need to be prepared for that eventuality. She then asked how enforcement would be handled. Mr. Abood agreed it was a tough problem and that it would make transfers more likely to occur in neighborhoods instead of business corridors. Chief Yankowski noted that currently officers looked into complaints with a house visit or a knock and talk, but many attempts to prosecute have failed because of the complications involved and the changing laws.

Other:

No other topics.

ADJOURN

The meeting was adjourned at 4:55 p.m. Submitted by, Courtney Vincent, Administrative Assistant Lansing City Council

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Approved: _____



MINUTES Committee on Public Safety June 27, 2016 @ 5:10 p.m. City Council Conference Room, 10th Floor City Hall

CALL TO ORDER

The meeting called to order at 5:11 p.m.

ROLL CALL

Councilmember Carol Wood, Chair Councilmember Adam Hussain, Vice Chair- excused Councilmember Kathie Dunbar, Member

OTHERS PRESENT

Sherrie Boak, Council Staff Joseph Abood, Interim City Attorney Elaine Womboldt Kathy Miles

Public Comment on Agenda Items

No public comment

Discussion/Action:

RESOLUTION – Appointment of Betty Draher as First Ward Member of the Board of Fire Commissioners for a Term to Expire June 30, 2017

Council Member Wood informed the group that Ms. Draher had served on the Board before, however had to resign due to time constraints with her volunteer work. It was recently with the assignment of a Community Policing Officer that she no longer has a time constraint. The Board has informed Council that with the upcoming interviews it is imperative for this position to be filled.

MOTION BY COUNCIL MEMBER DUNBAR TO APPROVE THE RESOLUTION FOR THE APPOINTMENT OF BETTY DRAHER AS 1ST WARD MEMBER TO THE BOARD OF FIRE COMMISSIONERS FOR A TERM TO EXPIRE JUNE 30, 2017. MOTION CARRIED 2-0.

Council Member Wood made note that the resolution did verify that the Mayor's office had vetted and verified Ms. Draher met all requirements.

ADJOURN

The meeting was adjourned at 5:13 p.m.	
Submitted by, Sherrie Boak, Recording Secr	etary Lansing City Counci
Approved:	

Wood, Carol

From:

Sylvia Stevenson <sgstevenson1970@yahoo.com>

Sent:

Friday, July 8, 2016 10:07 AM

To:

Wood, Carol

Carol,

I just want to, once again, express my concern about all the dispensaries that are opening in South Lansing. As I stated at the last meeting of Rejuvenating South Lansing, there are at least 9 dispensaries within a mile of my house. That was at last count. It seems like new ones open out of the blue. The 4 in Logan Square are more than enough to serve south Lansing. One is even a drive through. Please express to our new city attorney, that I want something done about regulating these establishments. We don't need the negative publicity of being Michigan's "pot city". Thanks for all you're doing to help the residents in south Lansing. Sylvia Stevenson

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